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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/690,195 | 10/21/2003 | James Clifton Curry | CURRY / 02US | 3677 |
| 26875 | 7590 | 06/01/2006 | EXAMINER | |
| WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202 | | | HOEY, ALISSA L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3765 | |

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|----------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/690,195 | CURRY, JAMES CLIFTON | |
| | Examiner | Art Unit | |
| | Alissa L. Hoey | 3765 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,8-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,8-13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This is in response to amendment received on 03/16/06. Claims 1, 2 and 12 were amended, claims 4, 6, 7 and 14 were cancelled and claims 19-21 are withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Innes (US 3,381,306).

In regard to claim 1, Innes teaches a garment configurable as a single panel or interconnected multiple panel garment comprising at least one fabric panel having a first half and a second half joined along a common foldline (figures 1-4). A first opening (26) formed proximate the foldline and cooperating fasteners (19, 19a, 18, 18a) positioned on the first half and second half of the panels wherein the cooperating fasteners are operable to secure the first half of the panel to the second half of the panel as a single panel garment and to secure adjacent panels together as an interconnected multiple panel garment (figures 4 and 8).

In regard to claim 2, Innes teaches the fasteners comprise a male component and a female component (18, 18a, 19, 19a). The male component positioned on one of

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the first half and the second half of the panels and the female component positioned on the other of the first half and the second half of the panel (figures 1 and 2).

In regard to claim 3, Innes teaches the panel comprising a material selected from the group consisting of cotton, polyester, rayon, linen, nylon, wool, silk, rubber and combinations thereof (column 2, lines 3-10).

In regard to claim 5, Innes teaches the first half and the second half including opposing longitudinal edges comprising one of the male and female components of the at least one fastener (18, 18a, 19, 19a).

In regard to claim 10, Innes teaches the first opening comprising a lining (figure 3).

In regard to claim 12, Innes teaches a garment configurable as a single panel or interconnected multiple panel garment comprising at least one panel of fabric having a first half, a second half and a central opening therebetween (figures 1-4). The first half and the second half comprising opposing longitudinal edges and having a common foldline proximate the central opening (26). A plurality of fasteners, each fastener being proximate the longitudinal edges of the first half and the second half of the panel (figures 1 and 2, identifiers 18, 18a, 19, 19a). The fasteners are configured to secure the first half of the panel to the second half of the panel as a single garment and to secure adjacent panels together as an interconnected multiple panel garment (figures 4 ad 8).

In regard to claim 13, Innes teaches the panel comprising a material selected from the group consisting of cotton, polyester, rayon, linen, nylon, wool, silk, rubber and combinations thereof (column 2, lines 3-10)..

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Innes.

Innes teaches a garment as described above in claim 12. However, Innes fails to teach the longitudinal edge of the first and second halves being about 45 inches long and the transverse edges being about 60 inches wide. Further, Benjamin fails to teach the plurality of fasteners comprises strips of about 36 inches, the strips having male and female fastener spaced about two inches apart and the fasteners being snap fasteners.

With respect to the limitation that the transverse edges are 60 inches, the longitudinal edges are 45 inches long, the fastener strip is 36 inches long and the fasteners are spaced apart 2 inches. The specification contains no disclosure of either the critical nature of the claimed dimensions or any unexpected results arising therefrom, and that as such the dimensions are arbitrary and therefore obvious. Such unsupported cannot be a basis for patentability, since where patentability is said to be

based upon particular dimensions or another variable in the claim, the applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F. 2d 1575, 1578, 16 USPQ2d 1934 (Fed. Cir. 1990). One having ordinary skill in the art would be able to determine through routine experimentation the ideal dimension for particular application based upon the size or the user and specific use of the garment article.

With respect to the fasteners being snap fasteners, it would have been obvious to have provided the fasteners being snap or zipper fasteners, because as long as the fasteners are complimentary fastening elements the type of fastener can be chosen from many fasteners that are well known in the apparel arts including zipper or snap fasteners.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Innes in view of Dike (US 3,013,274).

Innes teaches a garment as described above in claim 1. However, Innes fails to teach a pair of second openings in at least one of the first or second halves of the garment.

Dike teaches a towel garment having a pair of second openings in at least one of the first or second halves of the garment (figures 1-3, identifier 12).

It would have been obvious to have provided the garment of Innes with the second pair of openings of Dike, since the garment of Innes provided with a second pair of openings would provide for pockets in the garment giving the user a place to store items when not needed.

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7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Innes in view of McCarley (US 6,275,993).

Innes teaches a garment as described above in claim 1. However, Innes fails to teach a hood attached to the configurable garment.

McCarley teaches a hood attachable to a poncho type garment (96).

It would have been obvious to have provided the garment of Innes with the attachable hood of McCarley, since the garment of Innes provided with a hood would allow the user even more protection from the elements when wearing the garment.

8. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Innes in view of Dodd, Jr. (US D 365,193).

Innes teaches a garment as described above in claims 1 and 12. However, Innes fails to teach at least one image on one of the first or second half panels.

Dodd teaches a beach poncho having an image on the first half of the panels (see figures).

It would have been obvious to have provided the garment of Innes with the image of Dodd, since the garment of Innes provided with an image would provide a garment that is more aesthetically pleasing to the wearer and onlookers.

Response to Arguments

9. Applicant's arguments with respect to claims 1-3, 5, 8-13 and 15-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sholander is cited to show a closely related garment article.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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